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## ARIZONA ATTORNEY GENERAL

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STATE CAPITOL  
PHOENIX, ARIZONA

May 2, 1966

DEPARTMENT OF LAW LETTER OPINION NO. 66-19-L (R-48)

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REQUESTED BY: HELENE KAPLAN,  
Secretary Arizona Board of  
Physical Therapy Examiners

QUESTIONS:

1. Is it legal for the Registered Nurse to render physical therapy services, not being registered as a Physical Therapist under A.R.S., § 32-2001?
2. May the Arizona Industrial Commission make payment for physical therapy services rendered in a doctor's office by a Registered Nurse or an office girl?

ANSWERS:

1. Yes.
2. Yes, except for unlicensed persons.

The answer to your questions depend upon the construction to be given the Arizona statutes pertaining to the licensure of physical or physio-therapists (A.R.S., §§ 32-2001 et seq.), those pertaining to nursing (A.R.S., §§ 32-1601 et seq.) and those pertaining to Doctors of Medicine (Id. §§ 32-1401 et seq.) and Osteopathy (Id. §§ 32-1801 et seq.).

Physical therapy or physio-therapy, as it is sometimes called, is an addendum to the healing art or arts. By definition, physical therapy means the treatment of a bodily or mental condition by the use of physical, chemical, or other properties of heat, light, water, electricity, or by massage

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and active or passive exercise, prescribed by a licensed physician. (Id. § 32-2001.)

The practice of nursing, too, is an addendum to the healing arts. However, as a profession, and as the duties, privileges, responsibilities bearing to the patient and to attending physician, and the obligations implied or tacit to the calling, the practice of nursing enjoys a longevity not attributable to the profession of the physio-therapist. These privileges, responsibilities and obligations, incident to the nursing profession or calling, have resulted in a status or position of the nurse as being an extension of the right arm of the practicing doctor of medicine and osteopathy. (Cf. Laws 1921, ch. 70, §§ 1, 2 p. 139; Laws 1952, ch. 36, § 1 et seq.; Bryant v. Presbyt. Hosp., 304 N.Y. 538, 110 N.E.2d 391, 393.) We do not find decisional law in Arizona upon this point. However, we find other authority which is generally representative of our views in this field; the analogy between New York and Arizona statutes in the cases hereinafter cited, is apparent.

In New York, under a prior law, it was held that,

"A license to practice physiotherapy shall not permit the holder thereof to administer drugs or to practice medicine as defined in section twelve-hundred fifty of this article except to treat diseases under the supervision of a duly licensed physician." Education Law, § 1262, subd. 2; see People v. Mari, 260 N.Y. 383, 183 N.E. 858.

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In considering the legal functions of a nurse (Education Law §§ 1376, 1377) the Attorney General, in an informal opinion, has stated:

"The Education Law does not contain a definition of nursing. According to usage, however, the nurse administers various types of therapeutic treatment under the direction of a physician. The administration of medicines, the application of prescribed treatment, the giving of hypodermic injections and many other duties of importance are among the acts commonly performed by the nurse under the physician's direction." People v. Dennis, 271 App. Div. 526, 66 N.Y. Supp.2d 912 at 914.

Under Laws 1952, ch. 39, § 1 registered nurses were authorized to render professional services "requiring the application of the biological, physical and social sciences and nursing skills in the care of the sick \* \* \*". By Laws 1964, ch. 99, § 1; A.R.S., § 32-1601 5.d., one area of the extension of their vocation is described thus:

"The practice of professional nursing, means \* \* \* any act requiring substantial specialized knowledge, judgment and nursing skill based upon the principles of biological, physical, and social sciences in \* \* \* (c) the administration of medications and treatments \* \* \*. The foregoing shall not be deemed to include acts of medical diagnosis, or the prescription of medical therapeutic or creative measures \* \* \*." Id.

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There is, therefore, an overlapping of areas of the activities, as to which nurses and, physio-therapists are licensed (i.e., the giving of an authoritatively prescribed therapeutic treatment).

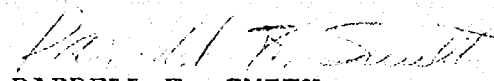
In your first question, the added condition, that the nurse renders the diathermy in a doctor's office, goes to assure that the registered nurse is authorized to give the service, which is authorized by A.R.S., § 32-1601 et seq.

Your letter contains a second question, concerning the authority of an unlicensed person to give diathermy. By our statute, such activity, (i.e., the giving of that therapy, or therapeutic treatment as diathermy, which is a treatment of a bodily condition by use of chemical or other properties of heat or electricity), is prohibited. Id. A.R.S. 32-2001.1 and § 32-2041(B).

In O'Neil v. Board of Regents, 272 App. Div. 1086, 74 N.Y. Supp.2d 763, a massage operator was convicted of practicing physio-therapy, without a license, where he was in fact giving the treatment prescribed, under the supervision of a physiotherapy license. Id. 763.

The extension of the hand of the physician, through the activities or acts of a registered nurse, giving a prescribed treatment, in the office of the physician, under his immediate supervision, does not violate the medical board license statute, much less would it be held to violate the physiotherapy license statutes. Consequently, in the frame of reference set out heretofore, each question is answered in the affirmative, except for unlicensed persons.

Respectfully submitted,

  
DARRELL F. SMITH  
The Attorney General